

REMARKS

Claims 14-17 and 20-22 are pending in the present application.

Claim 14 has been amended to more particularly point out and distinctly claim the present invention. In particular, claim 14 as amended is directed to a catheter comprising an expandable portion which comprises: (a) a balloon having an outer surface; (b) a membrane having an outer surface, an inner surface and a plurality of pores therein, wherein the membrane is disposed about the balloon; (c) a reservoir disposed between the outer surface of the balloon and the inner surface of the membrane¹; and (c) a sponge coating disposed upon the outer surface of the membrane such that when the catheter is inserted or implanted into the body lumen, the sponge coating is exposed to the body lumen. Support for the amendment may be found, *inter alia*, in paragraphs [0011], [0023], and [0024], as well as FIGS. 2a and 2b of the published specification. No new matter has been added.

CLAIM REJECTIONS UNDER 35 U.S.C. § 102 AND 35 U.S.C. §103

The Examiner has rejected claims 14-15, 17, 20-22 under 35 U.S.C. §102(b) and claim 16 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,417,567 to Baran (“Baran”). Applicants disagree with these rejections.

Contrarily to the Examiner’s allegation, Baran does not disclose a catheter. Instead, Baran teaches a surgical cuff that comprises an outer cuff member that encircles an inner cuff member, wherein the space between the inner cuff member and the outer cuff member is filled with a sponge-like material: (“A sponge-like material, like sponge rubber, is positioned in the space between the inner and outer cuff members.”). *See*, col. 2, lines 14-16. (“Positioned in the space between internal cuff E and external cuff D is the sponge-like material U, which is preferably sponge rubber”) *See also*, col. 3, lines 1-3. Although, Baran teaches that its sponge-like material is situated between the inner cuff and the outer cuff, Baran does not teach or suggest that its sponge-like material is used anywhere else in its surgical cuff, such as on the outside of the outer cuff. In contrast to Baran, the sponge coating of the present invention is disposed upon the outer surface of the membrane and thus is exposed to the body lumen when the catheter is inserted or implanted into the body lumen. Since Baran only teaches that its

¹ The Examiner alleged that Applicants have only functionally claimed the reservoir to be capable of containing a biologically active material. Applicants submit that the reservoir is structurally defined by the outer surface of the balloon and the inner surface of a membrane.

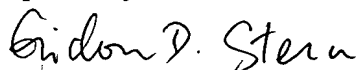
sponge-like material is placed between the inner cuff and outer cuff, the sponge-like material would not be exposed to body tissue, Baran fails to teach or suggest that the sponge coating of the present invention, which is disposed on the outer surface of the membrane, such that the sponge coating is exposed to the body lumen when the catheter is implanted or inserted. Also, with respect to claim 16, this claim is patentable over Baran for the additional reason that Baran does not teach or suggest the recited percentage of void space. Therefore, Applicants submit that the rejections of claims 14-17, and 20-22 based on Baran be withdrawn.

CONCLUSION

Applicants submit that the present claims satisfy all of the criteria for patentability and are in condition for allowance. Withdrawal of the Examiner's rejections and allowance of the claims of the present application are requested. If any issues remain in connection herewith, the Examiner is respectfully invited to telephone the undersigned to discuss the same. No fee is believed due for the Amendment. Should any fee be required, please charge such fee to Jones Day Account No. 50-3013.

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Respectfully submitted,



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